

records relating to any veterans' preference determinations regarding other applicants for the covered position the person sought, or records relating to the veterans' preference determinations regarding other covered employees in the person's position or job classification. The date of final disposition of the charge or the action means the latest of the date of expiration of the statutory period within which the aggrieved person may file a complaint with the Office or in a U.S. District Court or, where an action is brought against an employing office by the aggrieved person, the date on which such litigation is terminated.

#### 1.118 DISSEMINATION OF VETERANS' PREFERENCE POLICIES TO APPLICANTS FOR COVERED POSITIONS

(a) An employing office shall state in any announcements and advertisements it makes concerning vacancies in covered positions that the staffing action is governed by the VEOA.

(b) An employing office shall invite applicants for a covered position to identify themselves as veterans' preference eligibles, provided that in doing so:

(1) the employing office shall state clearly on any written application or questionnaire used for this purpose or make clear orally, if a written application or questionnaire is not used, that the requested information is intended for use solely in connection with the employing office's obligations and efforts to provide veterans' preference to preference eligibles in accordance with the VEOA; and

(2) the employing office shall state clearly that disabled veteran status is requested on a voluntary basis, that it will be kept confidential in accordance with the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the CAA, 2 U.S.C. §1302(a)(3), that refusal to provide it will not subject the individual to any adverse treatment except the possibility of an adverse determination regarding the individual's status as a preference eligible as a disabled veteran under the VEOA, and that any information obtained in accordance with this section concerning the medical condition or history of an individual will be collected, maintained and used only in accordance with the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) as applied by section 102(a)(3) of the CAA, 2 U.S.C. §1302(a)(3).

(c) An employing office shall provide the following information in writing to all qualified applicants for a covered position:

(1) the VEOA definition of veterans' "preference eligible" as set forth in 5 U.S.C. §2108 or any superseding legislation, providing the actual, current definition in a manner designed to be understood by applicants, along with the statutory citation;

(2) the employing office's veterans' preference policy or a summary description of the employing office's veterans' preference policy as it relates to appointments to covered positions, including any procedures the employing office shall use to identify preference eligible employees;

(3) the employing office may provide other information to applicants, but is not required to do so by these regulations.

(d) Except as provided in this subparagraph, the written information required by paragraph (c) must be provided to all qualified applicants for a covered position so as to allow those applicants a reasonable time to respond regarding their veterans' preference status.

(e) Employing offices are also expected to answer applicant questions concerning the employing office's veterans' preference policies and practices.

#### SEC. 1.119 DISSEMINATION OF VETERANS' PREFERENCE POLICIES TO COVERED EMPLOYEES

(a) If an employing office that employs one or more covered employees or that seeks ap-

plicants for a covered position provides any written guidance to such employees concerning employee rights generally or reductions in force more specifically, such as in a written employee policy, manual or handbook, such guidance must include information concerning veterans' preference entitlements under the VEOA and employee obligations under the employing office's veterans' preference policy, as set forth in subsection (b) of this regulation.

(b) Written guidances and notices to covered employees required by subsection (a) above shall include, at a minimum:

(1) the VEOA definition of veterans' "preference eligible" as set forth in 5 U.S.C. §2108 or any superseding legislation, providing the actual, current definition along with the statutory citation;

(2) the employing office's veterans' preference policy or a summary description of the employing office's veterans' preference policy as it relates to workforce adjustments; and the procedures the employing office shall take to identify preference eligible employees.

(3) The employing office may include other information in the notice or in its guidances, but is not required to do so by these regulations.

(c) Employing offices are also expected to answer covered employee questions concerning the employing office's veterans' preference policies and practices.

#### 1.120 WRITTEN NOTICE PRIOR TO A REDUCTION IN FORCE

(a) Except as provided under subsection (b), a covered employee may not be released, due to a reduction in force, unless the covered employee and the covered employee's exclusive representative for collective-bargaining purposes (if any) are given written notice, in conformance with the requirements of paragraph (b), at least 60 days before the covered employee is so released.

(b) Any notice under paragraph (a) shall include—

(1) the personnel action to be taken with respect to the covered employee involved;

(2) the effective date of the action;

(3) a description of the procedures applicable in identifying employees for release;

(4) the covered employee's competitive area;

(5) the covered employee's eligibility for veterans' preference in retention and how that preference eligibility was determined;

(6) the retention status and preference eligibility of the other employees in the affected position classifications or job classifications within the covered employee's competitive area;

(7) the place where the covered employee may inspect the regulations and records pertinent to him/her, as detailed in section 1.121(b) below; and

(8) a description of any appeal or other rights which may be available.

(c) (1) The director of the employing office may, in writing, shorten the period of advance notice required under subsection (a), with respect to a particular reduction in force, if necessary because of circumstances not reasonably foreseeable.

(2) No notice period may be shortened to less than 30 days under this subsection.

#### SEC. 1.121 INFORMATIONAL REQUIREMENTS REGARDING VETERANS' PREFERENCE DETERMINATIONS

(a) Upon written request by an applicant for a covered position, the employing office shall promptly provide a written explanation of the manner in which veterans' preference was applied in the employing office's appointment decision regarding that applicant. Such explanation shall state at a minimum:

(1) Whether the applicant is preference eligible and, if not, a brief statement of the rea-

sons for the employing office's determination that the applicant is not preference eligible. If the applicant is not considered preference eligible, the explanation need not address the remaining matters described in subparagraphs (2) and (3).

(2) If the applicant is preference eligible, whether he/she is a qualified applicant and, if not, a brief statement of the reasons for the employing office's determination that the applicant is not a qualified applicant. If the applicant is not considered a qualified applicant, the explanation need not address the remaining matters described in subparagraph (3).

(3) If the applicant is preference eligible and a qualified applicant, the employing office's explanation shall advise whether the person appointed to the covered position for which the applicant was applying is preference eligible.

(b) Upon written request by a covered employee who has received a notice of reduction in force under section 1.120 above (or his/her representative), the employing office shall promptly provide a written explanation of the manner in which veterans' preference was applied in the employing office's retention decision regarding that covered employee. Such explanation shall state:

(1) Whether the covered employee is preference eligible and, if not, the reasons for the employing office's determination that the covered employee is not preference eligible.

(2) If the covered employee is preference eligible, the employing office's explanation shall include:

(A) a list of all covered employee(s) in the requesting employee's position classification or job classification and competitive area who were retained by the employing office, identifying those employees by job title only and stating whether each such employee is preference eligible;

(B) a list of all covered employee(s) in the requesting employee's position classification or job classification and competitive area who were not retained by the employing office, identifying those employees by job title only and stating whether each such employee is preference eligible; and

(C) a brief statement of the reason(s) for the employing office's decision not to retain the covered employee.

#### END OF PROPOSED REGULATIONS

#### HONORING OUR ARMED FORCES

LANCE CORPORAL RICHARD CHAD CLIFTON

Mr. CARPER. Mr. President, I set aside a few moments today to reflect on the life of Marine LCpl Richard Chad Clifton. Chad epitomized the best of our country's brave men and women who fought to free Iraq and to secure a new democracy in the Middle East. He exhibited unwavering courage, dutiful service to his country, and above all else, honor. In the way he lived his life, and how we remember him, Chad reminds each of us how good we can be.

A resident of Milton, Chad's passing has deeply affected the community. A 2003 graduate of Cape Henlopen High School, Chad was the son of Richard C. and Terri Clifton. Friends, family, and school officials recalled Chad Clifton as smart, funny, laid back, and carefree; an all-around good person. He viewed the Marine Corps as an opportunity to gain life experience. An aspiring writer, Chad said being overseas was providing a reservoir of experiences to write about.

Chad always had a strong interest in the military. He spent more than 3 years as a member of the Cape Henlopen High School Junior ROTC program. His participation in that program enabled me to meet him last year and talk about his interest in serving the United States of America. His interest also came from his grandfather, a Korean War veteran, who earned the Purple Heart. That medal will be buried with Richard Chad Clifton.

After graduating from high school, Chad underwent basic training at Parris Island, SC before being stationed at Camp Pendleton, CA. Chad became a member of the 2nd Battalion, 5th Marine Regiment. He died in combat in the Al Anbar province in western Iraq.

Chad was a remarkable and well-respected young soldier. His friends and family remember him as an officer and gentleman with an acid wit and an appreciation for music and art. He enjoyed writing, listening to heavy metal, and watching television sitcom reruns. As his mother remembers, "He was pure potential with a good heart."

Today, commemorate Chad, celebrate his life, and offer his family our support and our deepest sympathy on their tragic loss.

#### KYOTO PROTOCOL AND CLIMATE CHANGE

Mr. JEFFORDS. Mr. President, I rise today to acknowledge that the international global warming pact known as the Kyoto Protocol has entered into force. This happens only 7 years after it was negotiated.

The Protocol imposes limits on emissions of greenhouse gases that scientists blame for increasing world temperatures. As my colleagues know, President Bush decided to abandon the Protocol and any serious international negotiations on the matter in March 2001. That unilateral abandonment leaves the world to wonder why the Nation that contributes the most greenhouse gas emissions to the world atmosphere refuses to accept responsibility for these emissions and refuses to cooperate with the international community to curb the global warming threat.

I assume it was no coincidence that the Committee on Environment and Public Works, on which I serve as ranking member, was supposed to consider legislation today called the Clear Skies Act. If passed, this legislation will create anything but clear skies.

The bill rolls back steady progress under the Clean Air Act and actually would increase this country's greenhouse gas emissions more than no legislation. The chairman of the committee has decided to take more time to craft this measure, due in no small part to the fact that the bill lacks the support in committee to be approved and reported to the Senate today. I commend the chairman for making that decision today—the same day the Kyoto Protocol has taken effect—to

more carefully consider this important measure.

In the coming weeks as we discuss this legislation, I hope that we can reach agreement on a bill that truly does clear our skies. To me, that means a bill that not only improves upon the Clean Air Act, but that also addresses our Nation's greenhouse gas emissions.

Yesterday, on the eve of the Kyoto Protocol entering into force, a White House spokesman stated that the United States has made an unprecedented commitment to reduce the growth of greenhouse gas emissions in a way that continues to grow our economy. Mr. President, I have seen no evidence of this commitment.

For my part, I have already introduced the Clean Power Act of 2005. I also intend to introduce the Renewable Portfolio Standard Act of 2005 and the Electric Reliability Security Act of 2005, two bills designed to use our resources more efficiently.

If President Bush signed into law a measure that caps or truly required reductions in the emissions of greenhouse gases, evidence of a real commitment would be apparent, not just to me but to the entire world. I call upon my Senate and House colleagues to mark the occasion of the Kyoto Protocol's entering into force by embarking upon serious work to craft legislation that imposes credible deadlines to achieve caps and significant reductions to our Nation's sizeable and growing contribution of greenhouse gases to the atmosphere.

#### THE DOHA DECLARATION AND THE TRADE PROMOTION AUTHORITY ACT OF 2002

Mr. KENNEDY. Mr. President, the Trade Promotion Authority Act of 2002 gives the President and the U.S. Trade Representative the power to negotiate bilateral and multilateral trade agreements that must be given expedited consideration by Congress. The Doha Declaration was adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar, on November 14, 2001, and addresses the need for access to medicines for all and how to reconcile that need with intellectual property protections.

When the Trade Act came to the floor of the Senate, Senator FEINSTEIN and I offered an amendment to the section on the negotiating objectives of the United States in trade negotiations. Our amendment made it a principal objective of the United States to respect the Doha Declaration in all trade negotiations. Regrettably, in several trade agreements since then, administration has refused to fulfill this obligation.

The basic issue was the interpretation of the so-called TRIPS agreement on intellectual property protections such as patents and copyright. The Doha Declaration specifically states that the TRIPS agreement "does not and should not prevent members from

taking measures to protect public health." It recognized the need to interpret and implement TRIPS in a way that supports a nation's "right to protect public health and, in particular, to promote access to medicines for all."

The Doha Declaration went on to specify that "[e]ach member country has the right to grant compulsory licenses and the freedom to determine the grounds upon which such licenses are granted." It stated that each member nation is "free to establish its own regime" on whether a sale of a patented product by the patent owner or licensee exhausts the patent, so that it cannot be asserted against subsequent purchasers or users of the product.

The Doha Declaration recognized a basic principle—poor people in the developing nations often cannot afford many patented drugs, even though the drugs are their only hope for surviving AIDS and other serious and life-threatening diseases.

The Doha Declaration is clearly intended to prevent patents from blocking access to life-saving drugs. Developing nations obviously do not have the capacity to manufacture drugs themselves, and they must be free to purchase these drugs from another country.

Our amendment to the Trade Promotion Authority Act reinforces the Doha Declaration. The Bush administration should be using it to negotiate trade agreements that allow urgently needed access to medicines. Instead, the administration has used trade agreements to promote the interests of the pharmaceutical industry at the expense of access to drugs in developing nations.

Again and again, the administration has defied the Doha Declaration and imposed unjustified restrictions on the availability of patented drugs. They've done it on trade agreements with Australia, with Jordan, with Morocco, with Singapore, and other nations. In these agreements, the Bush administration has undermined the very core of the Doha Declaration. They're trying to do it now in the Central American Free Trade Agreement.

They block the approval and use of generic version of drugs. They prevent new treatments for HIV/AIDS from getting to the people of the developing world.

It's an outrageous policy. The administration has made it U.S. policy to block affordable, life-saving drugs for AIDS for the people of Central America, because they feel it's more important to protect the profits of brand name drug companies.

The administration is defying the statutory requirement of the Doha Declaration, that our objective in these agreements must be to guarantee access to essential drugs for the sick and the poor in the developing nations of the world.

They use countless legal tactics to cause delays in the approval of generic drugs in developing countries, even